

# COUNCIL MEETING NOTICE AND AGENDA

WEDNESDAY, MAY 28, 2014

9:00 A.M. OR SOON THEREAFTER

COUNCIL CHAMBERS  
HISTORIC COUNTY BUILDING  
4396 RICE STREET, SUITE 201  
LIHU'E, KAUA'I, HAWAII 96766

RECEIVED

## A. MEETING CALLED TO ORDER.

'14 MAY 22 P5:02

## B. ROLL CALL.

OFFICE OF  
THE COUNTY CLERK  
COUNTY OF KAUA'I

## C. APPROVAL OF AGENDA.

## D. PUBLIC COMMENT.

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

## E. MINUTES of the following meetings of the Council:

1. May 7, 2014 Special Council Meeting

## F. CONSENT CALENDAR:

1. C 2014-134      Communication (05/07/2014) from the Mayor, submitting his supplemental budget communication for Fiscal Year 2014-2015 and proposed amendments to the budget bills, pursuant to Section 19.02A of the Kaua'i County Charter. (*Public hearing held 05/21/2014*)
2. C 2014-158      Communication (05/02/2014) from the Director of Finance, transmitting for Council information, the Period 9 Financial Report – Detailed Budget Report, Statement of Revenues (Estimated and Actual), Statement of Expenditures and Encumbrances, and Revenue Report as of March 31, 2014, pursuant to Section 21 of Ordinance No. B-2013-753, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2013-2014. (*Copies of the Period 9 Financial Reports as of March 31, 2014 on file in the County Clerk's Office.*)

3. C 2014-159      Communication (05/09/2014) from the County Engineer, transmitting for Council information, the following monthly Building Permit Reports for the months of January, February, March, and April 2014:
- (1) Building Permit Processing Report – Information on quantity and value of incoming applications, value of permits issued, and status of revolving Fund;
  - (2) Building Permit Value Summary – Graph of monthly Building Permit values;
  - (3) Building Permit Tracking Report – Summary of processing times overall and by Agency for all permits issued during the reporting period; and
  - (4) Building Permits Status: All current open applications – Summary review times overall and by Agency for all outstanding permit applications.
- (Copies on file in the County Clerk's Office.)*
4. C 2014-160      Communication (05/16/2014) from Council Vice Chair Chock, transmitting for Council consideration, a Resolution encouraging the use of Alternative Dispute Resolution (ADR) methods for conflict prevention in the County of Kaua'i, to increase awareness of the various ADR processes and to encourage our County to resolve disputes in an impartial and peaceful manner. ***(See Resolution No. 2014-33)***
5. C 2014-161      Communication (05/16/2014) from Councilmember Bynum, transmitting for Council consideration, a proposed Bill for an Ordinance to amend Chapter 5A of the Kaua'i County Code 1987, as amended, relating to Real Property Taxes, to include "Agronomics" as an additional Real Property Tax Rate Classification, to amend the definition of "agricultural use," and to require the Director of Finance to submit annual reports involving all agricultural dedicated properties to the Mayor and the County Council. ***(See Proposed Draft Bill (No. 2546))***
6. C 2014-162      Communication (05/19/2014) from Councilmember Yukimura, transmitting for Council consideration, a Resolution amending Resolution No. 2014-57, Draft 1, to amend the deadline for the Affordable Housing Advisory Committee to file its report with the Council, which is currently due on May 30, 2014. ***(See Resolution No. 2014-34)***

7. C 2014-163      Communication (05/21/2014) from Councilmember Hooser and Councilmember Rapozo, transmitting for Council consideration, a Resolution Expressing No Confidence In And Requesting The Resignation Of The County Attorney.  
*(See Resolution No. 2014-35)*
8. C 2014-164      Communication (05/22/2014) from the County Clerk, transmitting a 2014 Charter amendment petition relating to “A New Article XXXIII to Protect From Hazards of GMO Agriculture, Toxins and Testing, Establish an Administrator of Environmental Health, and Provide for Enforcement” submitted by petitioners’ committee “Kaua’i Rising” pursuant to Section 24.01(B) of the Kaua’i County Charter. *(Confidential petitioners listing on file in the County Clerk’s Office.)*

G. COMMUNICATIONS:

1. C 2014-125      Communication (04/17/2014) from the County Attorney, requesting authorization to expend funds up to \$15,000 to retain Special Counsel to advise the Council concerning coverage under the County’s insurance policy with Everest National Insurance Company, in connection with the lawsuit Tim Bynum vs. County of Kaua’i, et al., Civil No. CV12-00523 JMS-RLP (United States District Court), and related matters. *(Deferred 05/14/2014)*
2. C 2014-152      Communication (05/02/2014) from the County Attorney, requesting authorization to expend funds up to \$50,000 for Special Counsel’s continued services to represent Henry Barriga and Sherwin Perez in Lynell Tokuda, et al. vs. Chris Calio, et al., Civil No. CV13-00202 DKW-BMK (U.S. District Court), and related matters.  
*(Deferred 05/14/2014)*
3. C 2014-165      Communication (05/07/2014) from the Executive on Transportation, requesting Council approval to accept a donation of four (4) full-size transit buses from the City and County of Honolulu, Department of Transportation Services, and the donation of free shipment for two (2) buses by Young Brothers, which will be used to address growth in demand resulting in the overcrowding on several bus routes.

4. C 2014-166      Communication (05/07/2014) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend State funds in the amount of \$37,217, and approval to indemnify the State of Hawai'i, Department of the Attorney General, for the term commencing July 1, 2014 for the Kaua'i Victim Witness Assistance Program.
5. C 2014-167      Communication (05/07/2014) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal funds in the amount of \$199,504, and approval to indemnify the State of Hawai'i, Department of the Attorney General, for the term commencing August 1, 2014, for the Kaua'i Victim of Crime Act (VOCA) Expansion Project.
6. C 2014-168      Communication (05/16/2014) from the Hawai'i State Association of Counties (HSAC) President Mel Rapozo, transmitting for Council approval the slate of officers for the HSAC Executive Committee and Board of Director nominations for the National Association of Counties (NACo) and the Western Interstate Region (WIR) for the 2014-1015 term, pursuant to Section 5, Section 5A, and Section 5c of the Bylaws of the Hawai'i State Association of Counties, Inc.

#### H. LEGAL DOCUMENT:

1. C 2014-169      Communication (05/19/2014) from the County Engineer, recommending Council approval to secure a Construction Right-of-Entry and Governor's Executive Order for a portion of the Lihu'e State Building parcel, for the purpose of providing additional parking and sidewalk modifications along Hardy Street, Lihu'e, which includes indemnification of the State of Hawai'i, Department of Land and Natural Resources, situated at Tax Map Key (TMK) No: (4) 3-6-005:011.

- Right-of Entry Agreement

#### I. CLAIM:

1. C 2014-170      Communication (05/14/2014) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Sheilah Miyake, c/o Peter W. Olsen, esq., for reimbursement of legal fees and expenses, pursuant to Section 23.06, Charter of the County of Kaua'i.

J. COMMITTEE REPORTS:1. PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

- a. **CR-PWPR 2014-06:** on PWPR 2014-04      Communication (05/06/2014) from Council Chair Furfaro, requesting the presence of the Director of Parks and Recreation, County Engineer, and Executive on Transportation, to provide an update regarding the restoration of the former Hanalei Courthouse facility, including, but not limited to, the following:
- The planned use(s) for the facility;
  - The proposed design of the bus stop and bus shelter, if any, and future plans for bus service, bus base yard, etc.;
  - The appropriate septic system;
  - The design of the pathway(s) adjacent to the facility grounds;
  - The proposed landscaping of the facility grounds; and
  - The proposed design to prevent flood damage to the building.
- [Received for the Record.]**

2. ECONOMIC DEVELOPMENT (SUSTAINABILITY / AGRICULTURE / FOOD / ENERGY) & INTERGOVERNMENTAL RELATIONS COMMITTEE:

- a. **CR-EDR 2014-01:** on EDR 2014-01      Communication (04/21/2014) from Committee Chair Hooser, requesting the presence of the Director of Economic Development to provide a briefing on the County's initiatives (current and proposed) relating to agriculture, including, but not limited to, any funding requirements of the project and available grants and restrictions thereto. **[Received for the Record.]**

3. COMMITTEE OF THE WHOLE:

- a. **CR-COW 2014-06:** on COW 2014-03      Communication (05/15/2014) from Committee of the Whole Chair Furfaro, transmitting the proposed increases to, deductions from, and other proposed amendments (plus/minus sheet) to the Mayor's Fiscal Year 2014-2015 Annual Operating and Capital Improvement Projects Budgets. **[Received for the Record.]**

- b. **CR-COW 2014-07:** on Resolution No. 2014-11 RESOLUTION ESTABLISHING THE REAL PROPERTY TAX RATES FOR THE FISCAL YEAR JULY 1, 2014 TO JUNE 30, 2015 FOR THE COUNTY OF KAUAI  
[Approved as Amended.]
- c. **CR-COW 2014-08:** on Bill No. 2537 A BILL FOR AN ORDINANCE RELATING TO THE OPERATING BUDGET AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2014 TO JUNE 30, 2015  
(Mayor's Operating Budget)  
[Approved as Amended.]
- d. **CR-COW 2014-09:** on Bill No. 2538 A BILL FOR AN ORDINANCE RELATING TO CAPITAL IMPROVEMENTS AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2014 TO JUNE 30, 2015  
(Mayor's CIP Budget) [Approved as Amended.]

K. RESOLUTIONS:

1. Resolution No. 2014-11, Draft 1 – RESOLUTION ESTABLISHING THE REAL PROPERTY TAX RATES FOR THE FISCAL YEAR JULY 1, 2014 TO JUNE 30, 2015 FOR THE COUNTY OF KAUAI (See also CR-COW 2014-07; the Committee of the Whole recommended approval as amended to Resolution No. 2014-11, Draft 1 on May 21, 2014.)

2. Resolution No. 2014-22 – RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO THE CODE OF ETHICS (Public hearing held 05/14/2014)

3. Resolution No. 2014-33 – RESOLUTION ENCOURAGING THE ROLE OF ALTERNATIVE DISPUTE RESOLUTION METHODS FOR CONFLICT PREVENTION IN THE COUNTY OF KAUAI

4. Resolution No. 2014-34 – RESOLUTION AMENDING RESOLUTION NO. 2013-57, DRAFT 1, ESTABLISHING AN AFFORDABLE HOUSING ADVISORY COMMITTEE

5. Resolution No. 2014-35 – RESOLUTION EXPRESSING NO CONFIDENCE IN AND REQUESTING THE RESIGNATION OF THE COUNTY ATTORNEY

L. BILL FOR FIRST READING:

1. Proposed Draft Bill (No. 2546) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES

M. BILLS FOR SECOND READING:

1. Bill No. 2537, Draft 1 – A BILL FOR AN ORDINANCE RELATING TO THE OPERATING BUDGET AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2013 TO JUNE 30, 2014 (*Mayor's Operating Budget*) (*See also CR-COW 2014-08; the Committee of the Whole recommended approval as amended to Bill No. 2537, Draft 1 on May 21, 2014.*)

2. Bill No. 2538, Draft 1 – A BILL FOR AN ORDINANCE RELATING TO CAPITAL IMPROVEMENTS AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2014 TO JUNE 30, 2015 (*Mayor's CIP Budget*) (*See also CR-COW 2014-09; the Committee of the Whole recommended approval as amended to Bill No. 2538, Draft 1 on May 21, 2014.*)

N. EXECUTIVE SESSION: *Pursuant to Hawai'i Revised Statutes (HRS) §92-7(a), the Council may, when deemed necessary, hold an Executive Session on any agenda item without written public notice if the Executive Session was not anticipated in advance. Any such Executive Session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a). (Confidential reports on file in the County Attorney's Office and/or the County Clerk's Office. Discussions held in Executive Session are closed to the public.)*

1. ES-722 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and (8) and Kaua'i County Charter Section 3.07(e), the purpose of this Executive Session is to provide the Council with a briefing concerning the coverage provided by the County's insurance policy with Everest National Insurance company for attorneys' fees arising in connection with the lawsuit Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 JMS-RLP (United States District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item. (*Deferred 05/14/2014*)

2. ES-730 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on Special Counsel's continued representation of Henry Barriga and Sherwin Perez in Lynell Tokuda, et al. vs. Chris Calio, et al., Civil No. CV13-00202 DKW-BMK (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item. **(Deferred 05/14/2014)**

#### O. ADJOURNMENT.

- P. PUBLIC HEARING NOTE: If the Council is not finished with this meeting by approximately 1:30 p.m., it will recess for public hearings on the following. After the public hearings, the Council will reconvene to complete any unfinished business.

*[\*For complete information, including a summary of the item, please refer to the official Notice of Public Hearing. The official Notice of Public Hearing has been published, posted on the bulletin board, and filed in the County Clerk's Office as required by law. Notwithstanding this Council Agenda, the Council may hold a public hearing on any item which has been posted in advance in compliance with the Sunshine Law.]*

**For a copy of the notice, please go to:**

<http://www.kauai.gov/Government/CountyCouncil/PublicHearingNoticesandMinutes/tabid/599/Default.aspx>

1. Resolution No. 2014-27 – RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO THE COST CONTROL COMMISSION
2. Resolution No. 2014-29, Draft1 – RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO SETTING GOLF COURSE FEES
3. Bill No. 2544 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2013-753, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2013 THROUGH JUNE 30, 2014, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (Office of Economic Development, Wages and Hourly Pay – Ka Aha Hula O Halauola Conference Assistant – \$12,000)

- Q. NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, SUITE 209, LIHU'E, KAUAI, HAWAII 96766. TELEPHONE NO. (808) 241-4188. FACSIMILE NO. (808) 241-6349.